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March 23, 2004

Chairman Marc Spitzer
Commissioner William Mundell
Commissioner Mike Gleason
Commissioner Jeff Hatch-Miller
Arizona Corporation Commission
1200 W. Washington Ave.
Phoenix, Arizona 85007

Re: Voice Over Internet Protocol: Comments to the FCC's NPRM and Commission's stance on VOIP regulation; Docket Number T-00000A-04-0219

Dear Colleagues:

The rapid rise of Voice-Over-Internet Protocol – the process by which telephony is offered through the Internet – has given rise to a national debate over when, how and whether to regulate this burgeoning technology.

Several VOIP providers are already operating in Arizona and more are sure to set up shop soon. The sudden emergence of VOIP raises a number of serious questions for both this Commission and the Federal Communications Commission. The FCC has begun the process of addressing the regulatory implications of VOIP through a Notice of Proposed Rulemaking, which was adopted on February 12, 2004. Congress has also taken up the matter in recent weeks, most notably in the Senate Commerce Committee. However, the ACC has yet to wade into these waters.

Consequently, I have asked that an informational docket be opened on VOIP, and would like the Commission to consider offering commentary to the FCC's NPRM.

Among the issues the Commission should explore and issue comment on to the FCC's NPRM are:

- Jurisdiction: The ACC has jurisdiction over traditional telephone service providers pursuant to the Arizona Constitution. However, Voice Over Internet Protocol providers generally argue that they fall outside the ambit of state and federal regulation by virtue of

being an Internet-based information service.¹ Does the Arizona Corporation Commission have jurisdiction to regulate VOIP providers that utilize the public service telephone network?

- 911/E911/Public Safety: Currently, landline operators are required to provide 911/E911 services that permit first responders to locate distressed callers by virtue of their phone call. Should VOIP providers be required to provide 911/Enhanced 911 services tantamount to those required of traditional telephony service providers?
- Universal Service Requirements: Today, telephone service providers are required to contribute a percentage of their intake to the USF for use in the build-out of telephone services to rural and underserved areas. Some are concerned that the rise of VOIP will reduce the amount available for rural infrastructure. Others argue that subjecting VOIP to the USF will amount to a tax on the internet, thereby hindering its development. Should VOIP providers who utilize the public service telephone network be subject to the same Universal Service funding obligations as traditional telephony providers?
- Access Charges/Inter-carrier Obligations: Should access charges be imposed on VOIP providers, as they are on land-line companies, or should VOIP continue to be treated as an information services provider unburdened by these charges?
- Law Enforcement Issues: Currently, law enforcement officials are able to intercept the communications of lawbreakers through the use of judicially-approved wiretaps. Should and can law enforcement access VOIP for these purposes? Is it technologically feasible?
- Numbering Issues: Currently the FCC holds jurisdiction over the North American Numbering Plan, the system by which phone numbers are distributed by geographic design. However, VOIP providers are now distributing numbers that do not follow this protocol, giving rise to some confusion about who will get what numbers and how. Can and should these two systems of numbering be squared?
- Abbreviated Dialing: Traditional telephony service includes abbreviated dialing (such as 2-1-1, 3-1-1, 4-1-1, etc). Is VOIP technology capable of providing abbreviated dialing and are the VOIP providers willing to implement the technology?
- Additional Consumer Issues: Questions must also be asked about consumer protection. For instance, are the VOIP providers willing to comply with CPNI requirements, "truth-in-billing" issues, and slamming rules?

If the ACC is to be heard on these issues, we must act quickly. I propose that at the next staff meeting we vote on whether this body should provide comment to the FCC's NPRM.

¹ A great deal of diversity exists within and among VOIP providers. Some VOIP is purer than others, in the sense that certain VOIP providers send telephony via "packet" of information from one computer to another, while other providers originate the call from a telephone line, then translate it into packets at a second state, then terminate on land-line.

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I appreciate your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Mayes', with a stylized flourish at the end.

Kristin K. Mayes
Commissioner

Cc: Brian McNeil
Heather Murphy
Elijah Abinah